IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 14.08.2015

BAIL APPLN. 1480/2015

ASHIMA CHOPRA ..... Petitioner

Through: Mr Rajesh Chugh, Advocate.

versus

STATE OF NCT OF DELHI ..... Respondent

Through: Mr Rajat Katyal, APP.

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

1. The present is an application under Section 439 CrPC, 1973 praying for grant of regular bail in FIR No.154/2015 under Sections 420/120B IPC registered at Police Station- Mehrauli, Delhi.

2. In the present case it is observed that the applicant who is a lady aged 50 years has been in judicial custody since 02.07.2015.

3. Mr Rajesh Chugh, learned counsel appearing on behalf of the applicant, strenuously urged that the latter is innocent and has nothing to do with the alleged offence. Mr Chugh by referring to the documents in question would urge that she was not at all instrumental in signing any collaboration agreement with the complainant. In other words it is the assertion of Mr Chugh that the subject document was signed at the behest of her husband who is absconding. Mr Chugh, invites my attention to paragraph 4 at page 2 of the present application to urge that the applicant has been abandoned and deserted by her husband. It has been lastly urged on behalf of Mr Chugh that the agreement to sell with regard to the subject property with the original owner was entered into only by her husband and the consideration paid by the complainant in the subject FIR was credited only in the account of her husband.

4. This court had summoned the file in Testamentary Case No. 42/2011, *Jatin Krishan Gupta v. State*, in order to compare the admitted signatures of Late Jatin Krishan Gupta in those proceedings with his purported signatures, which are alleged to be forged, on the agreement to sell entered into between him and the husband of the applicant at the time the former was still alive.

5. A perusal of the admitted signatures of said Jatin Krishan Gupta on the petition for grant of letters of administration, the affidavit in support thereof as well as the annexures appended to the said testamentary case reveal variations in the admitted signatures. The said Jatin Krishan Gupta was admittedly a patient of muscular dystrophy which explains the variations in his signatures at different places. The admitted signatures of the said Jatin Krishan Gupta and the signatures purportedly made by him on the purported agreement to sell appear prima facie to be made by the same person.

6. In any event, in the present case it is observed that the only allegations levelled against the applicant are that she confirmed the receipt of Rs.90 lacs from the complainant company. However, as has been stated above the consideration for having entered into the collaboration agreement has not been received by her in her bank account. The prime accused in the subject FIR is the husband of the applicant from whom she is estranged. The applicant has been in custody for the last forty days and it is not denied that the applicant has co-operated with the investigation. The only reason for the rejection of her application for regular bail by the Sessions Court was the apprehension that she may not be available to stand trial since her husband is an absconder. In this behalf it is noticed that the passport of the applicant is with the investigating agency in another case and both her children are stated to be pursuing higher education in India which is the reason she returned to India from Malaysia and was arrested on arrival.

7. In ***State of U.P. Through CBI** v. **Amarmani Tripathi, (2005) 8 SCC 21***, the Supreme Court observed as under:-

> "**18.** It is well settled that the matters to be considered in an application for bail are (*i*) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (*ii*) nature and gravity of the charge; (*iii*) severity of the punishment in the event of conviction; (*iv*) danger of the accused absconding or fleeing, if released on bail; (*v*) *character, behaviour, means, position and standing of the accused*; (*vi*) likelihood of the offence being repeated; (*vii*)*reasonable apprehension of the witnesses being tampered with*; and (*viii*) *danger, of course, of justice being thwarted by grant of bail* [see *Prahlad Singh Bhati* v.*NCT, Delhi* [(2001) 4 SCC 280 : 2001 SCC (Cri) 674] and *Gurcharan Singh* v. *State (Delhi Admn.)* [(1978) 1 SCC 118 : 1978 SCC (Cri) 41 : AIR 1978 SC 179]]. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused. We may also refer to the following principles relating to grant or refusal of bail stated in *Kalyan Chandra Sarkar* v. *Rajesh Ranjan* [(2004) 7

SCC 528 : 2004 SCC (Cri) 1977] : (SCC pp. 535-36, para 11)

> "*11*. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:
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> (*a*) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.
>
> (*b*) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.
>
> (*c*) Prima facie satisfaction of the court in support of the charge. (See*Ram Govind Upadhyay* v. *Sudarshan Singh* [(2002) 3 SCC 598 : 2002 SCC (Cri) 688] and *Puran* v. *Rambilas* [(2001) 6 SCC 338 : 2001 SCC (Cri) 1124] .)"

8. The subject FIR discloses the commission of an economic offence arising out of a property transaction. Therefore, the only considerations that ought to weigh with the court are the likelihood of the accused fleeing from justice or tampering with the prosecution witnesses. Both of these relate to ensuring the fair trial of the case. The evidence in the subject FIR is entirely documentary and the said documents are not stated to be in the power or possession of the applicant.

9. In view of the foregoing, it is directed that the applicant be released on bail on her furnishing a personal bond in the sum of Rs.1 lac with two sureties of the like amount to the satisfaction of the trial court subject to the following conditions:-

1. The applicant shall not leave India without prior permission of this court.
2. The applicant shall remain present before the trial court on the date fixed for hearing of the case.

10. With the above directions the application is allowed.

11. The file in Testamentary Case No.42/2011, *Jatin Krishan Gupta v. State*, be sent back to the Registry.

Dasti.

SIDDHARTH MRIDUL, J

AUGUST 14, 2015
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